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OFFICE OF PETITIONS

In re Application of
David S. Wehrle et al.
Application No. 09/546,093
Filed: April 10, 2000
Attorney Docket No. 00AB108

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)
:
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This is a decision on the petition under 37 CFR 1.78(a)(6), filed August 30, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.


The petition is **DISMISSED** as moot for the reasons stated below.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

37 CFR 1.78(a)(5)(ii) indicates that the time periods set forth therein do not apply if the later-filed application is: (1) an application for a design patent; (2) an application filed under 35 U.S.C. § 111(a) before November 29, 2000; and (3) a nonprovisional application which entered the national stage after compliance with 35 U.S.C. § 371 from an international application filed under 35 U.S.C. § 363 before November 29, 2000.

Since the instant nonprovisional application was filed prior to November 29, 2000, the provisions of 37 CFR 1.78(a)(6) for acceptance of a late claim for priority do not apply to the subject nonprovisional application. Accordingly, the petition is dismissed as involving a moot issue.

Any questions concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272- 3212.


Frances Hicks
Petitions Examiner
Office of Petitions